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Green, John Pugh

The present condition of the railways

[S.l.]

1916

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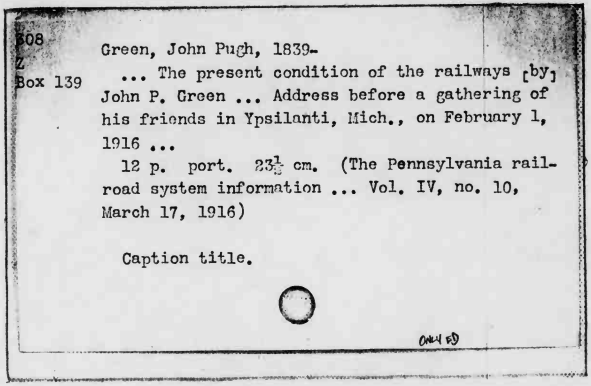

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... The present condition of the railways [by] John P. Green ... Address before a gathering of his friends in Ypsilanti, Mich., on February 1, 1916 ...
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THE PENNSYLVANIA RAILROAD SYSTEM

INFORMATION

FOR EMPLOYES AND THE PUBLIC

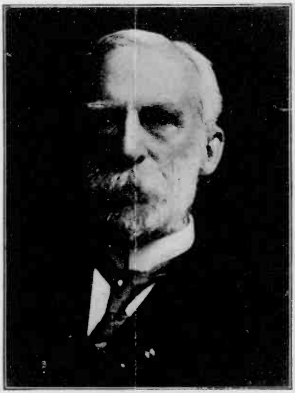
Broad Street Station
PHILADELPHIA, PA.

March 17, 1916

Pennsylvania Station
PITTSBURGH, PA.

IV 10

The Present Condition of the Railways



JOHN P. GREEN
FOR 27 YEARS VICE-PRESIDENT OF THE PENNSYLVANIA RAILROAD COMPANY

Captain Green delivered the following address before a gathering of his friends in Ypsilanti, Mich., on February 1, 1916:

An experience of over fifty years with the railways of the country has made their welfare a subject very near to me; and I have thought it might be of interest to you to hear something about their present condition under the workings of the Interstate Commerce laws and other legislative action.

In considering the course of legislation in regard to interstate commerce, one thing is clear—that the scheme of the law has been vitally changed, while at the same time no corresponding change has been made in the machinery for enforcing its provisions, or in the tribunal charged with its administration.

INTENTIONAL SECOND EXPOSURE

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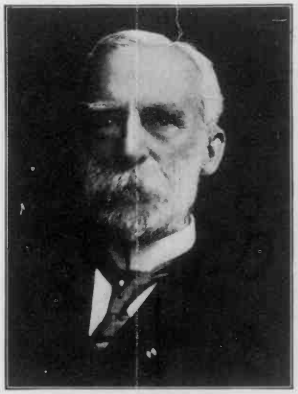

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In considering the course of legislation in regard to interstate commerce, one thing is clear—that the scheme of the law has been vitally changed, while at the same time no corresponding change has been made in the machinery for enforcing its provisions, or in the tribunal charged with its administration.

The original Act of 1887 was designed to meet conditions which existed at that time, and to reform abuses that had honeycombed the traffic relations between the railways and the shippers. These abuses largely grew out of the abnormally rapid development of the railway system, the construction of railways far in advance of the necessity therefor, and the attempt of the carriers to obtain the traffic necessary to maintain them. While there were flagrant evils, they were to a certain extent inseparable from the hot-house growth of the railway systems.

* * * * .

The building of the Union and Central Pacific Railroads across the continent—which were largely constructed as a military measure, after the experience of the Civil War had shown the necessity for rapid communication between the Atlantic and Pacific coasts—had introduced a speculative feature into the railway question which exercised a strong influence throughout the entire country. The large profits which had been made from their construction, and the rapid development of the country along the Pacific roads, encouraged the building of other lines throughout the United States, while the contributions made by the Government toward their construction had created a precedent for the extension of aid by counties, townships and other municipalities to local roads built, very often, for speculative profit and away ahead of the actual business necessity for their construction.

The Beginning of Competition

These lines having been built, it was absolutely necessary to secure traffic for them, and this was often secured after strong competition, and at rates that were unremunerative, in the belief that with the growth and gradual development of the territory their future would be assured. As a result of this policy the large shipper became the important factor in railway traffic. Great mercantile houses in Chicago, New York and other cities, having control of large amounts of business, naturally desired to have their traffic carried at the cheapest rate, so that their profits would be increased. Competing lines between the East and West and the North and South were keen bidders for this traffic, and it went to the line which would offer the lowest rate.

* * * *

It must be remembered that under the law as it was construed at that time by the English courts and, in a measure, by our own, it was considered entirely proper for a lower rate to be made for a large shipment than for a small one—for a carload shipment, for instance, than for less than carload, and if the railroad was dealing with a concern whose business required a whole train of cars, it was considered perfectly proper to make it an exceptionally low rate.

The railways, of course, had no interest in carrying the goods at a low rate unless it was necessary to secure the traffic, but the shipper, who had made his bargain with the purchaser, was an applicant for the lowest possible price, because every cent that could be saved in that way went as an additional profit into his pocket. It was perfectly natural for manufacturers competing in certain lines with other manufacturers on other railways, and anxious to control the sale of goods in a given market, to apply to the railway for a reduced rate.

How Rebates Started

The general freight agents of the different lines and their soliciting agents were besieged at all times by their own shippers, alleging that unless a cut rate were given the prize would be captured by a competitor on another railway, until the road, having a natural interest in its shippers and desirous of encouraging the industries on its own lines, was, in fact, compelled to meet the shipper's requests. No one but the man who has been actually engaged in railway traffic can appreciate the urgency and persistency with which these claims were made, in most cases in entire good faith; nor can he understand the difficult position in which a railway officer was placed who desired to aid the shipper on his own line and secure the haul for his own road.

The claims of rival cities, like Boston, New York, Philadelphia and Baltimore, for what is known as a differential rate on interstate commerce to and from and through seaboard points, have never been definitely adjusted yet, although they have been the subject of most careful and intelligent consideration not only by trained railway officers, but by experienced commercial bodies; and the Interstate Commerce Commission has had no greater success in solving this intricate problem.

* * * *

The question of rates to and from Chicago and points northwest thereof, and the Atlantic seaboard, compared with rates to southern seaboard shipping points, is a vital one that affects an enormous export traffic in flour, grain and other

commodities; while the question of rates to the Lakes and on export coal from the Pittsburgh, Fairmont, Pocahontas and other West Virginia districts has never been satisfactorily adjusted.

When there is taken into consideration, in addition to all this, the questions connected with competition by water to and from railway centers, and the transcontinental competition between the railways to the Pacific coast and the Panama route, the competition between the iron districts of Pennsylvania and Ohio and similar industries in Georgia, Alabama and other sections, it will readily be seen how intricate the rate question is and how impossible it is for any one to deal with it intelligently, unless he has had a lifelong experience therewith.

What Rebates Did

The concessions made to the large shippers naturally built up manufacturing and mercantile establishments which became dominant in the markets, and with the continuance of the concessions they were able to underbid their smaller competitors and gradually drive them out of business, not only to their disadvantage, but to that of the public.

This was due not to the fact that they had the control of large capital, because large capital in any business will always have the distinct advantage over small capital, but largely to the fact that they were preferred shippers over the railways and therefore able to make a profit when the small shipper, not receiving the same rates, could only operate at a loss.

As the public is quick to catch a result of this kind, but not always accurate or careful in its reasoning, the feeling gradually grew up that the trouble arose from the fact that large aggregations of capital were permitted in corporate enterprises. This feeling not only exists to the present day, but it has been the parent of many curious theories, under which it has been gravely contended that while it is perfectly proper for one to own 49 per cent. of an enterprise, it is a crime to own 51 per cent.

* * * *

Almost every budding statesman who comes to Congress feels that his continuance in office is assured if he can only roundly denounce aggregations of capital and insist upon some arbitrary limit being put upon their growth. In other words, at the same time that the United States Government has, in order to maintain its financial standing in the world, been compelled to create large reserve banks, which would be able to deal with modern necessities and supply exceptional amounts of money for mercantile and manufacturing purposes, much beyond the ability of any but a very few of the ordinary banks, the burden of the legislation in Congress has been to hamper and obstruct the natural development of our manufacturing and mercantile interests and to prevent them from becoming active competitors in the world's markets.

Certainly a better illustration could not be furnished of the curious measures which the public will champion to promote the general welfare. In passing it is only necessary to recall the greenback craze and the silver dollar inflation theory as notable examples of this, the correction in each case coming finally through the intelligent afterthought of the people.

* * * *

The first Interstate Commerce Law was passed February 4, 1887. It covered all interstate traffic by rail, or by rail and water if it were a through shipment, and confined itself to requiring:

1. That all charges made in connection therewith should be reasonable and just, and should be the same to all shippers under substantially similar circumstances and conditions.

2. That there should be no greater charge for a shorter than for a longer haul.

3. It forbade the pooling of rates or earnings by competing lines.

4. It required the publication of schedules and rates of fare.

5. It forbade advances in rates, except on ten days' notice.

6. It required annual and other reports from carriers.

7. It prescribed penalties for violations of the Act, and the legal proceedings for the enforcement thereof.

The First Interstate Commerce Commission

Five Commissioners were named, the Chairman being a noted and able jurist, Thomas M. Cooley, of Michigan, and the other members August Schoonmaker, of New York, Aldace F. Walker, of Vermont, a man thoroughly familiar with the railroad situation, W. R. Morrison, of Illinois, an able Democratic politician, and Walter L. Bragg, a distinguished citizen of Alabama. The labor element was recognized by the appointment of E. A. Moseley as Secretary of the Commission.

The duties of the Commission were simple and easily performed, and, as will be seen, were principally confined to the securing of the same rates to all shippers under like circumstances. The matter of interstate commerce regulation was not

then a political question. Grover Cleveland was President of the United States, and the subject was approached from a judicial and business standpoint.

* * * *

As I had charge at that time of all legislative matters connected with the Pennsylvania Railroad Company, and as it was always largely to the interests of its lines that rates should be maintained, for the simple reason that, with our magnificent terminals in the large cities and our superior transportation facilities, we could always command the business at the same rate, I was brought into close touch with the committees having in charge the drafting of the Act and especially with Senator Cullom, of Illinois, who had direct charge of the measure in the Senate. His mind was entirely open on the subject and he had no purpose except to secure a fair and just bill. One or two provisions were inserted to which strong objection was unsuccessfully made. One prohibited a Commissioner from owning a share of stock or a bond of a railway company; and while this was not important in the bill of 1887, it has since been most unfortunate, under the enormous powers now granted to the Commission. It has prevented any one from taking part in its deliberations and councils whose experience and training had made him familiar with railway questions, and has thus resulted in disfranchising an enormous body of shareholders and bondholders, who must furnish the money for the construction and maintenance of the railway system.

Pooling Prohibited

The second provision to which serious objection was made, but unsuccessfully, was that prohibiting the pooling of rates or earnings between competing lines. This has been most unfortunate, for it has compelled competing railways to each maintain a separate service between many points where the public could be amply taken care of through a joint service at a large saving both to the companies and the public. The purpose of the provision, of course, was to prevent competing railways from combining so as to charge excessive rates on passenger or other traffic. But while it might have been entirely proper when, under the law, the Interstate Commerce Commission had no power to make rates, it has been entirely unnecessary and mischievous under the large rate-making powers that have since been conferred upon it.

The Results of No Pooling

It has resulted in the duplication and quadruplication of train service to an enormous extent and to the hauling of cars containing very few passengers, especially so far as sleeping and parlor cars are concerned, where the average number carried is about ten or twelve per car at the outside. Many attempts have been made to repeal this provision, but the average legislator knows so little about railway matters that it is very difficult to secure intelligent action thereon.

* * * *

Since the passage of the original bill many changes have been made through amendments, or the passage of separate bills. These changes cover generally the following modifications:

1. As to jurisdiction: The authority of the Commission has been extended to telegraph, telephone and cable companies, express and sleeping car companies, and pipe lines.

2. The Commission has been given the power to establish through rates and classifications, and the carrier is required to make all reasonable and necessary arrangements for the transportation of property over such through routes.

3. The carriers have been required to make just and reasonable classifications of property transported.

4. They have been required, upon the application of any lateral or branch line, to make and operate a switch connection with such lateral or branch line, where the connection is safe and reasonably practicable, and where it will furnish sufficient business to justify its construction and maintenance.

5. They have been forbidden to transport any article or commodity manufactured, mined or produced by them other than timber and the manufactured products thereof, or in which they have any interest, except such as may be necessary for their use in the conduct of their business —this exemption of timber showing how sectional and political the legislation of Congress has been.

6. The printing and publication of their schedules of rates and classifications have been so fully provided for as to impose an enormous burden in the way of expenses on all carriers engaged in interstate commerce. They are required to note upon such schedules all deviations from the regular rates or other charges, so that shippers may be fully advised thereof.

* * * *

7. In connection with the "Long and Short Haul Clause" in the Interstate Commerce Act, the words "under substantially similar circumstances and conditions" have been eliminated.

8. In relation to shippers: They, as well as the carriers, have been made liable to fine and imprisonment for any undervaluation or underbilling, or fraudulent representation under which property delivered to the carrier for transportation will be carried at a reduced rate.

9. The fullest remedies have been prescribed for the investigation of complaints made by shippers and summary remedies have been authorized by way of mandamus and otherwise. The United States District Attorneys are at the beck and call of the Commission for the prosecution of any complaint, and the United States Circuit Courts are open to them and the shippers either for short legal proceedings, or for the more deliberate prosecution of their claims.

10. The interests of the public have been safeguarded in every way, while the reports required from the carriers on all possible subjects have attained such a volume and frequency that they impose a serious burden upon the revenues of the carriers, although in many cases after they are made they are simply filed away and never referred to.

11. But the vitally important and most serious change of all, and one which has not only seriously impaired the earnings of the strongest lines, but has driven a number of roads into bankruptcy, is the power conferred upon the Interstate Commerce Commission in 1906 and 1910, a power not conferred upon any other tribunal in the world, and one which deprives the railroads and their shareholders of the right which every other citizen of the United States has for the redress of an injury done to his property.

The Commission's Powers

In other words, while the power originally given to the Interstate Commerce Commission was a supervisory power and their duties were confined to the supervision of rates and to the enforcement of equal rates and facilities to all shippers, and the investigation of complaints in regard thereto, and to the determination from the facts presented whether the rates and facilities were just and reasonable, no power was given to them to make or suspend the rates upon traffic, except subject to a prompt review by the courts and a judicial determination thereof.

* * * *

But under the legislation passed in 1906, when Mr. Roosevelt was President, and later in 1910, the control and management of the railway properties, so far as their revenues are concerned, have been taken from their owners and the whole matter put into the hands of the Commission, with power to suspend a rate for one hundred and twenty days and thereafter for a further period of six months; while any order of the Commission fixing a rate shall, in the discretion of the Commission, remain in force for a period of two years.

It will readily be seen that such a power, unless lodged with men thoroughly trained in railway traffic and operation, simply destroys the ability of a management to raise revenue sufficient to take care of the property; and that a commission composed of men not skilled in railway matters finds it much easier to suspend a rate for the period named than to assume the responsibility of deciding the question.

Railroads Have No Redress

The railroads are thus left practically without any redress, for, under the law as interpreted by the Supreme Court of the United States, proof that a rate is confiscatory must be submitted before that Court will interfere with the order of the Commission. In practice, therefore, no matter how just the advanced rate proposed by the railroad may be, if it is suspended for ten months and at the end of that period decided to have been just and reasonable, the traffic of the railroad for these ten months has been carried at the lower rate, and there is no possible way of recovering for the transportation from shippers or passengers the amount that had thus been kept out of the railway treasury.

The injustice of this is manifest, for if an excess charge is made on freight or express matter shipped, or in passenger fares, and the final decision is that the rate is too high, the railroad is always there to respond in damages; whereas, when the shipper disappears the railroad has no redress. The denial of the right to the railroads to have an order of the Commission passed upon by a competent court in a summary proceeding, which is conferred upon the shipper under the law, is simply a monstrous injustice.

* * * *

The stockholder of a railroad company has, under the Constitution, the same rights as any other person from whom property is taken without compensation, and yet in this case the right is practically denied him; and while he is looked to to furnish the money for the construction and maintenance of the railroads, he is deprived of the legal redress which is assured to the worst criminal.

It is not to be wondered at that forty thousand miles of railroad in the United States are today in the hands of receivers, out of a total of about 250,000 miles; while the course pursued by the Government in the institution and prosecution of legal proceedings against some of the large railroads of the country has been one impossible for a fair and reasonable man to understand.

Why Punish the Stockholders?

Why, if the allegations made by the Government are true, and the directors of these roads have done wrong, the stockholders should be punished, it is difficult to conceive. In the case of the New York, New Haven and Hartford Railroad the action of the United States Government and of the States through which that system operates has inflicted an enormous loss—over $100,000,000—upon the stockholders of the Company, who had nothing to do with the transactions of which the Government complains.

In addition thereto the Boston and Maine road, which is a natural and integral part of their system, has been divorced from it and its property thus further destroyed, after it had spent a large amount of money in the reconstruction and reorganization of that road. The one piece of personal profit that seems to have accrued from the proceedings instituted at Washington has been the elevation of one Attorney General of the United States to the Supreme Court, and there is very little question in the minds of thoughtful men that these adverse proceedings which have been pushed so vigorously and constantly, by different administrations, have had largely in view the boosting of one or other of the political parties and the influencing of national or State elections.

Whatever may have been the case in the past, the railroads of the country today are managed with an efficiency and integrity that far exceeds that of any other country in the world, while the rates, both passenger and freight, are one-half to one-third of those exacted in other countries for a similar service.

The Mail Pay Question

Another unjust burden that has been laid upon the railroads is in connection with carrying the United States mails. Under the practice of the Post Office Department the mails are weighed only once every four years. Of course, it is well known that the amount of mail increases very largely each year. Statistics show that the yearly average increase is from 6 to 10 per cent.; but although the mails are weighed at the beginning of the four years and while during these four years the aggregate increase may amount to 25 to 40 per cent., the railroads do not get a single dollar for the additional increased tonnage carried during the four years.

* * * *

Not only this, but when the parcel post was put into effect on January 1, 1913, no arrangement was made with the railroads under which they would receive additional compensation for carrying the enormous amount of additional mail freight. This continued for six months, after which an allowance of not exceeding 5 per cent. increased pay was granted until the quadrennial weighing period came around. This was an inadequate allowance to the railroads generally, and particularly inadequate on certain lines where the tonnage carried was above the average. A more frequent weighing—say, annually—would have been a more fair and business-like arrangement than a small percentage of increase in pay.

The railroads, in order to accommodate the public, have always met every request of the Government in connection with the handling of the mails, have gone to heavy expense in the construction of steel postal cars, and carry about 20,000 railway postal clerks, as well as the officials of the Service, without receiving one cent of compensation therefor in the way of passenger fares.

The Effect of 1906 and 1910 Legislation

The enactment of the legislation of 1906 and 1910 has had, as I have said, a most disastrous effect upon the railways of the United States. It may safely be affirmed that there is no other

instance on record of the management of a great industry, the prosperity of which is vital to the interests of the country, being taken out of the hands of its owners and placed in the hands of a body of men without experience in that industry, therefore necessarily incompetent to perform their duties, and appointed largely for political or personal reasons.

It has never before been attemped to take from the enormous body of people interested in the securities of the railways the safeguard of the courts in the protection of their rights.

How Can the Commission Be Made Useful?

But assuming that a commission will continue to exist, the practical question is, In what way can the Interstate Commerce Commission be made useful and what changes are necessary in order to secure fair and even justice for the railways of the country?

It is clear that when the Commission was appointed in 1887, the duties assigned to it were not such as to require in the performance of its duties the experience and knowledge of the trained railway man. The Commission was formed to correct one great evil—the making of rebates and the unjust discrimination between shippers in charges and facilities. Its power was therefore inquisitorial rather than executive or administrative, for in the exercise of even these powers it was provided that the orders of the Commission should be subject to review by a competent judicial tribunal. The Commission was, in fact, made complainant, prosecuting attorney, judge and jury, but always subject to judicial oversight in the United States courts.

Public Insisted on Rebates

Even after the passage of the bill, the public still insisted upon rebates being made, and in many cases they continued to be given, not for any personal gain to the railway agent or official gain to the Company, but in the belief that the competing line was giving these favors and that it was necessary to follow its example in order to obtain a fair share of the competitive business.

Finding that the provisions of the law had not entirely stopped this practice, Congress then resorted to the old experiment, which has always failed, that of declaring everything a crime, in the belief that the fear of imprisonment for doing what violates no moral law, but only a business regulation, would deter the shipper from asking for the rebates and the railroad from granting them. The result was, as it always had been, that as there was no moral guilt, the public took these risks, and the juries, being representative of the communities where their neighbors were asking and receiving rebates, would not convict the defendants.

What Mr. Cassatt Did

But when, in 1899, Mr. Alexander J. Cassatt became the President of the Pennsylvania Railroad, he determined to use every means in his power not only to crush the rebate practice on the lines of his own system, but, if it were possible, on the lines of other companies competitive to his own. It was not believed that he could be successful; but the measures he took were heroic and such as brought the answer. Large shippers who came to him asking for rebates were told that the Pennsylvania Railroad Company was determined to extend to all their shippers the same facilities and the same rates.

* * * *

To accomplish that result, the Pennsylvania Railroad bought enormous blocks of the stocks of the Baltimore and Ohio, Chesapeake and Ohio, and Norfolk and Western Railways, and thus secured the active co-operation of these large systems in the observance of the law resulting in the practical abolition of rebates in the territory running east from Chicago and St. Louis to the Atlantic seaboard. No one but a man of Mr. Cassatt's ability, influence and determination could have accomplished such a result.

But while this great result was being attained, the politician, recognizing that his ammunition was being taken from him, and that unless the public could be persuaded that some evil still existed his stock in trade would be largely gone, then began to preach the "gospel of hate" and the marshaling of prejudice against aggregations of capital. The preaching of the doctrine that in this country, where the poorest have the fullest opportunity to reach the top of the ladder and acquire wealth and property, there is a class of undesirable citizens who by reason of their wealth are detrimental to its interests was then advanced.

The doctrine began to be preached that the Government must be paternal; that a citizen could not even take a drink of water, or use a towel, without the supervision of the Federal or State Governments, while, through the medium of heavy taxes on large incomes, the Government began to take a disproportionate part of the property of its wealthy citizens.

Attacking the "Large Interests"

Successive Attorney Generals of the United States have made their fame by instituting suits against the so-called "Large Interests," by picking out certain railway systems, alleging that they were combinations in restraint of trade, that it was necessary to disintegrate and destroy the property of the individual shareholders in order to punish the directors who, they claim, had conspired to secure the control of competing lines in the interest of these shareholders.

* * * *

The railway systems that served large tracts of territory were attacked by each administration, Republican and Democratic alike, and these prosecutions were made the basis for securing official promotion of those most active in making these attacks. Through these proceedings, which naturally affected their credit, it became impossible for the railways to borrow money, except at exorbitant rates, and for years they were unable to place long loans and were compelled to do their financing on short notes at exorbitant rates.

There is at the same time a constant demand from the public for the abolition of grade crossings, the equipment of passenger trains with steel cars, the adoption of safety devices of all kinds; and the public, who make these demands, have been busy through their representatives in Congress and the legislatures in reducing the rates on freight and passengers, and increasing taxes, and have thus, as I have said, driven a large railway mileage into the hands of receivers.

When hearings are held upon the applications of the railways for rates that will permit them to do their duty to the public and pay their shareholders and creditors a reasonable return upon the money invested, cranks of all kinds are permitted to come to these hearings and air their views. No rules of evidence are observed. Any statement, no matter how wild, is accepted as if it were gospel truth; and the Commission, being without the necessary experience, when asked to determine questions that can only be determined in the light of actual experience, finds it much easier to suspend the rate than to take definite action. At the recent rate hearings, the Commission presented the extraordinary spectacle of having to hire an attorney to represent it and conduct the hearings, for no other reason than its own inability to properly perform this duty.

The Interstate Commerce Commission Controls Administration of Carriers

The Interstate Commerce Commission today unfortunately fails to recognize the fact that it practically controls the administration of the railways; that it is not a tribunal trying an issue of guilt or innocence, but that it is responsible for the well-being of the railways, for their proper maintenance, and for securing to them the necessary revenue to pay reasonable returns on the money that has been, and has to be, invested therein to enable the railways to steadily increase their facilities for the benefit of the public.

But above all these, the lesson they should have learned from the terrible war now being waged abroad is that they must maintain the railways in condition where they can serve the Government in case of war with the same efficiency and success with which they serve the public in time of peace. If trouble comes to this country, and the railways are not in the proper condition to respond instantly and effectively to the call of the Government for the transportation of men and supplies, this country is doomed to defeat.

The Lesson of the War

Every lesson taught by that war is to the effect that failure in the transportation service of the railways means overwhelming disaster. The long drive of the German armies against the Russians, which covered hundreds of miles and almost threatened their capital, was simply due to the fact that the German railways had been constructed so as to reach the important strategic points on the borders of neighboring countries, and had been kept in the most efficient condition for instant service; while the Russians, having an enormous extent of territory to cover, had failed to build the necessary railways or to keep them so provided with equipment and other facilities as to meet the emergencies that were thrust upon them.

Certainly nothing could be more imbecile than for this country to find itself in the same condition, through the action of its own Government in crippling our railways and putting them into the hands of any commission which did not feel its responsibility in this important respect.

What the Railroads Ask

All that the railways ask is justice, and that they are entitled to have. I have been a member of the railway profession for over fifty years, and can safely say that there is no profession in this country which contains today a greater number of men of pronounced ability and integrity than that profession; and this country would indeed be fortunate if it had in its legislative bodies anything like the same percentage of men to do their full duty and perform with efficiency and fidelity the tasks intrusted to them.

* * * *

If the present Interstate Commerce Commission is to be preserved, let it be an inquisitorial and investigating body; let it be a prosecuting body; let it look after the safety devices, the securing of reports from the carriers, the compiling of statistics, and other such matters connected with the operation of the railways. The experience it has had in these matters will make it always a valuable tribunal for such purposes; but let its action upon these matters, wherever they encroach upon the rights of the individual, be subject to review by the courts, to which all other citizens have the right to appeal when their rights are impaired.

But for matters that vitally require the experience and training of railway operating, traffic and financial men—such as the making of rates and the issue of securities—let a new commission be appointed that shall have jurisdiction over these two subjects and such as are necessarily related thereto. Let that commission be made up of experienced and competent men, railway men, and men of legal, financial and business ability. Let their term of office be for ten years or a longer period, and let them be appointed independent of their political affiliation. Let their salaries be such as to attract men of the highest ability; avoid the provision of the present law that no member of this new commission shall own a share of stock or a bond of any railway. Let the rule be that no member of the commission shall sit in any case in which he has a pecuniary interest, the same that is practiced by judges of all tribunals. Certainly as high a class of men is necessary and can be secured for this new tribunal as now sit upon the bench of the United States Courts.

How the Commission Should Be Composed

This commission should have at least fifteen members, which would be three for each of the five important railway districts of the country; and these three should comprise a competent, trained railway man, a financial man of proved ability and experience, and a lawyer of high standing or a business man of established reputation. This tribunal could be so divided that each of the five branches thereof could take care of the ordinary questions arising in its district, while on all large questions affecting rates and revenues and the issue of securities, the commission could have the advantage of the joint consultation and action of all its members, whose experience and training would best fit them to decide such grave and far-reaching questions.

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It may bring the whole railway question more clearly to your minds if I select for an illustration like action on the part of the United States Government in connection with another of our leading forms of industrial enterprise.

The power to regulate commerce, under the decisions of the courts, applies not only to vehicles of transportation, such as vessels, cars, wagons, etc., that transport the commerce, but practically to everything connected therewith or incident thereto. Under this power and that conferred by the Sherman Act to prevent monopoly and the restraint of trade, there is hardly anything that cannot be regulated by Congress; especially in view of the fact that under the decisions of the Supreme Court of the United States the State regulations that interfere with this regulation by the United States are void and must yield to the paramount authority of Congress.

The Case of a Department Store

Let us take the case, then, of the large department stores, whose business is largely interstate and to which the whole of the United States is tributary. Upon the complaint of some small storekeeper against these establishments—say, Sears, Roebuck & Company and other like mercantile enterprises, doing a business amounting to hundreds of millions annually—the Federal Trade Commission, which has already been created, investigates the complaint and reaches the conclusion that it is well founded and proceeds to subject these establishments to the same treatment that the railroads now receive.

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Under the law as applied to the railways, this commission would not have to know anything about the prices of merchandise, as the members of it are forbidden by law to be the owners of any of the merchandise to be disposed of. The Commission then proceeds to deliver its judgment on the prices at which the department store must sell its goods, just as they fix the prices at which the railroads shall sell their transportation.

Having no practical knowledge of the mercantile business, they have an open mind and fix whatever price may seem good to them upon everything from a coal scuttle to a grand piano. This is done after a long hearing in which every

one who wants to buy anything energetically protests through counsel against a higher price being charged for any kind of goods, and an able lawyer, hired by the Commission, shows, to his own entire satisfaction, that if these merchants who run the department stores understood their business and managed them with the proper efficiency, they could sell really at much lower prices and still make large amounts of money.

The Commission's Policy

The Commission naturally desires to favor the public, and either decides on the lowest price or, what is easier still, suspends its decision for four months and then for six months longer, so that by the end of the year, the hearing having occupied the other two months, the department stores have had to sell their goods at ruinous prices and have almost been forced into bankruptcy.

They can have no redress in the courts unless they show that these prices have practically forced them into bankruptcy, and even if the Commission finally decides in their favor, they can never recover the money from their customers that should have gone into their treasuries.

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Having lost the greater part of their capital, the department stores go into the market with the hope that, in the infinite mercy of Providence, some sense of justice may perhaps enter into the mind of the average legislator, or that a commission may be appointed which, from long experience in business, will have the requisite knowledge and ability to deal fairly as between the seller and the purchaser.

But the department stores find that their credit has been so shaken that, instead of being able to borrow money at low rates and for a long period, they can only get it on short notes at almost prohibitive prices. Instead of being able to put by in good times a sum of money to take care of times of depression, when the purchasing power of the public is diminished, its surplus has been practically annihilated, and about one-sixth of the department stores of the country have been forced into the hands of receivers. It is thus impossible for them to get money on the same terms that are extended to people in other branches of business.

The Labor Problem

To add to their troubles, their employes, who are members of labor organizations, notify them that in consequence of the increased cost of living their wages must be largely increased, with the threat that if this is not granted there will be a strike, with the inevitable result that if an attempt is made to hire others there will be rioting and bloodshed when they bring in substitutes to take the places of the old employes.

Then the United States Government needs money and comes along with a heavy income tax; the State Legislatures need money and increase their taxes, so that, as in the case of one of the railroads of your own State, the taxes in 1914 amounted to nearly 6 per cent. on gross earnings.

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Their employes having had their loyalty and efficiency largely destroyed by the labor organizations, they can no longer depend upon a fair day's work for a fair day's pay. The demand for higher wages is an endless chain, under which one class of labor appeals to arbitration or conciliation, with the foregone conclusion that there will be a compromise, resulting in an increased rate.

This is taken up in succession by the different classes of labor, and always with the same result; and by the time the last class has been disposed of some other labor leader, who has to make his job sure, starts a new agitation, and the first class comes forward again, until the employers lose hope and property in the endeavor to roll a stone up hill that is always rolling down.

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Now, gentlemen, this is not a fancy sketch. It is exactly what has been done to the railroads of the country for ten years past, and what is being done to them today; and if such statements do not convince reasonable men that a monstrous injustice is being perpetrated upon the millions of men, women and children who hold railroad securities and depend upon the income therefrom for their living, then I shall begin to lose faith in the sense of justice of the American people.

A Life of Real Service

Captain John Pugh Green, who on March 24, 1909, declined re-election as First Vice-President of the Pennsylvania Railroad Company, though he remained with the Company in an advisory capacity, on becoming seventy years of age retired from active service under the pension rules of the Company, on July 31, 1909.

Captain Green had been in active service with the Pennsylvania exactly forty years and one month, having entered its service on July 1, 1869, as Chief Clerk to Thomas A. Scott, who at that time was First Vice-President. He was a Vice-President of the Pennsylvania Railroad for twenty-seven years. He was Assistant to the President for eight years prior to becoming Vice-President. In recognition of his long and distinguished service, the Board of Directors, upon the announcement of his declination of re-election to the office of First Vice-President, adopted a Minute, in part as follows:

"Captain John Pugh Green, First Vice-President of this Company for over twelve years, and a member of its Board of Directors for nearly twenty-seven years, will reach the age of seventy on the 31st of July, 1909, but, with characteristic regard for the convenience of the service and of his fellow officers, has declined re-election in order that the official changes consequent upon his retirement, under the pension regulations of the Company, may take place at this time.

"For the first time in twenty-six years, therefore, the Board enters upon the work of a new corporate year without him, and it seems eminently fitting that a record should be made upon the Company's minutes of the Board's appreciation of his distinguished service.

"Captain Green was admitted to the Bar in 1860, and was just beginning the practice of his profession when the Civil War broke out. He answered the call to arms, and served with honor and distinction until January, 1865, when he resigned to accept the position of Private Secretary to the late Colonel Thomas A Scott. After two and a half years in the service of Colonel Scott, in supervision of his varied interests, and two years as Secretary and Treasurer of the Milwaukee and Minnesota Railroad Company, he entered the service of the Pennsylvania Railroad Company, as Chief Clerk to the First Vice-President, Colonel Scott, on the 1st of July, 1869.

"On the 29th of June, 1874, Captain Green was appointed Assistant to the President, and on the 13th of September, 1882, he was elected Fourth Vice-President and a member of this Board. He was Third Vice-President from the 30th of June, 1888, until the 1st of March, 1893; Second Vice-President from the latter date until the 10th of February, 1897, and First Vice-President from that date until today.

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"His legal training, military service, and subsequent business experience formed the groundwork for a life of great usefulness, and combined with an alert mind, a unique

power of instant analysis of any subject presented to him, an unusual capacity for the dispatch of business, and the faculty of clear, concise and convincing expression have made him an ideal railroad executive officer.

"Captain Green has that intimate knowledge of the Pennsylvania Railroad System which comes of active participation in its growth. Entering the service in 1869, just after the lease of the Pittsburgh, Fort Wayne and Chicago Railway, and before the charter of the Pennsylvania Company had been granted, he has seen the structure put together piece by piece—the acquisition and development of the "Western Lines;" the lease of the property of the United New Jersey Railroad and Canal Company; the purchase of the control of the Philadelphia, Wilmington and Baltimore Railroad Company; the development of the lines in the Pennsylvania bituminous coal fields; the acquisition of the New Jersey seashore lines; the construction of the Schuylkill Valley line into the anthracite region; and the mammoth project of the tunnel extension into the heart of New York City, now nearing completion, and the connection thereby with Long Island and the East.

"In the disposition of troublesome questions connected with the finances of some of the properties west of Pittsburgh, involving, in some instances, tedious litigation and reorganizations, in the refunding at low rates of interest of maturing obligations bearing high rates, in the extensive financing required in more recent times, in the consolidation of subsidiary companies, and the absorption of others into the parent company, to do away with costly accounting, Captain Green has played an important part.

"He has had supervision of the Accounting Department for twenty-one years, and of the Company's finances for sixteen years, and in its financial negotiations and transactions, his sound judgment, clear grasp and intuitive perception of the conditions to be met have given weight to his recommendations as an Officer, and a marked value to his counsel as a Director.

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"His complete mastery of the science of sound financiering, his thorough knowledge of the finances and history of this Company, his pleasing address and clear and forceful style have made him for many years the spokesman of the management, while his general knowledge of the railroad affairs and business conditions of the country have made him a prominent figure and potent factor in the debates upon legislation seeking to regulate rates and other railroad matters, as well as in the discussion and solution of intricate problems in accounting.

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"Captain Green has been an executive adviser of five of the eight Presidents of the Company, and, when he retires from active service on the 31st of July next, will have served it for over forty years, a faithful and efficient officer, and an indefatigable worker with singleness of purpose for the welfare of the Company and the interests of the stockholders.

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"The Company is fortunate in the long enjoyment of his service and counsel, and the Board, while regretting that the time has arrived for the severance of the official ties which have existed for over quarter of a century, congratulate him upon the completion of a service as valuable to the Company as it is honorable and creditable to him, and express the hope that the evening of his active and useful life may bring him a long continuance of good health, and every opportunity for the fullest enjoyment of his well-earned freedom from exacting cares and responsibilities."

END OF
TITLE